

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
3                                   **WESTERN DISTRICT OF PENNSYLVANIA**

4 CHERYL WILLIAMS,                                   )

5                                   Plaintiff                                   )

6                                   v.                                   )

7                                   VERDE ENERGY USA, INC.,                                   )

8                                   Defendant                                   )

**Case No.:**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

9  
10  
11                                   **COMPLAINT**

12                   CHERYL WILLIAMS (“Plaintiff”), by and through her attorneys,  
13 KIMMEL & SILVERMAN, P.C., alleges the following against VERDE ENERGY  
14 USA, INC. (“Defendant”):

15  
16                                   **INTRODUCTION**

17                   1.     Plaintiff’s Complaint is based on the Telephone Consumer Protection  
18 Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

19  
20                                   **JURISDICTION AND VENUE**

21                   2.     Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See  
22 Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

23                   3.     Defendant conducts business in the Commonwealth of Pennsylvania  
24 and as such, personal jurisdiction is established.  
25

1           4.     Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2                                   **PARTIES**

3           5.     Plaintiff is a natural person residing Tarentum, Pennsylvania 15084.

4           6.     Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

5           7.     Defendant is a corporation that has its office located in Norwalk,  
6  
7 Connecticut 06851.

8           8.     Defendant is a “person” as that term is defined by 47 U.S.C.  
9 §153(39).

10          9.     Defendant acted through its agents, employees, officers, members,  
11  
12 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
13 representatives, and insurers.

14                                   **FACTUAL ALLEGATIONS**

15  
16          10.    Plaintiff has a cellular telephone number that she has had for more  
17 than one year.

18          11.    Plaintiff has only used this number as a cellular telephone number.

19          12.    The phone number has been assigned to a cellular telephone service  
20  
21 for which Plaintiff incurs a charge for incoming calls.

22          13.    Plaintiff never provided permission to Defendant to call her cellular  
23 telephone number to contact her regarding any goods or services offered by  
24 Defendant.  
25

1           14. Beginning in or around December 2014, and continuing through  
2 January 2015, Defendant called Plaintiff on her cellular telephone.

3           15. When contacting Plaintiff on her cellular telephone, Defendant used  
4 an automatic telephone dialing system and automated and/or pre-recorded  
5 messages.  
6

7           16. Defendant's messages would state its name and that its call was "for  
8 marketing purposes."

9           17. Defendant's telephone calls were not made for "emergency purposes."  
10

11           18. For example, Defendant called Plaintiff on December 4, 2014, at  
12 12:00 p.m.

13                           **DEFENDANT VIOLATED THE**  
14                           **TELEPHONE CONSUMER PROTECTION ACT**

15           19. Plaintiff incorporates the forgoing paragraphs as though the same were  
16 set forth at length herein.

17           20. Defendant initiated multiple automated telephone calls to Plaintiff's  
18 cellular telephone using a prerecorded voice.  
19

20           21. Defendant initiated these automated calls to Plaintiff using an  
21 automatic telephone dialing system.  
22

23           22. Defendant's calls to Plaintiff were not made for emergency purposes.

24           23. Defendant's calls to Plaintiff, in and after December 2014, were not  
25 made with Plaintiff's prior express consent.

1           24. Defendant's acts as described above were done with malicious,  
2 intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights  
3 under the law and with the purpose of harassing Plaintiff.

4           25. The acts and/or omissions of Defendant were done unfairly,  
5 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
6 lawful right, legal defense, legal justification or legal excuse.

7           26. As a result of the above violations of the TCPA, Plaintiff has suffered  
8 the losses and damages as set forth above entitling Plaintiff to an award of  
9 statutory, actual and trebles damages.  
10  
11

12  
13                                   **PRAYER FOR RELIEF**

14           WHEREFORE, Plaintiff, CHERYL WILLIAMS, respectfully prays for a  
15 judgment as follows:  
16

- 17           a. All actual damages suffered pursuant to 47 U.S.C. §  
18           227(b)(3)(A);  
19  
20           b. Statutory damages of \$500.00 per violative telephone call  
21           pursuant to 47 U.S.C. § 227(b)(3)(B);  
22  
23           c. Treble damages of \$1,500 per violative telephone call pursuant  
24           to 47 U.S.C. §227(b)(3);  
25           d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);

1 e. Any other relief deemed appropriate by this Honorable Court.

2 **DEMAND FOR JURY TRIAL**

3 PLEASE TAKE NOTICE that Plaintiff, CHERYL WILLIAMS, demands a  
4 jury trial in this case.  
5

6  
7 RESPECTFULLY SUBMITTED,

8  
9 DATED: April 3, 2015

KIMMEL & SILVERMAN, P.C.

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